



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

MQB/172754

PRELIMINARY RECITALS

Pursuant to a petition filed March 10, 2016, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Menominee Indian Tribe of WI in regard to Medical Assistance (MA), a hearing was held on April 21, 2016, at Keshena, Wisconsin.

The issue for determination is whether the petitioner's income exceeds the limit for Medicare premium assistance (SLMB).

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

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Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703

By: [REDACTED]
Menominee Indian Tribe of WI
Community Resource Ctr-IM Program
W3236 Wolf River Drive
Keshena, WI 54135

ADMINISTRATIVE LAW JUDGE:

Peter McCombs
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Menominee County.
2. The petitioner and his wife receive in excess of \$1,602.00 in gross monthly income in the form of retirement benefits from Social Security and self-employment income.

3. The county agency determined that the petitioner and his wife were ineligible for Medicare premium assistance (SLMB) because their income exceeds the program's limit.

DISCUSSION

Wisconsin has three related programs that help persons pay their Medicare premiums. SLMB and SLMB+ are medical assistance subprograms mandated by Wis. Stat. § 49.468(1m)(a) that pay their participants' Medicare Part B premiums. Medical Eligibility Handbook, § 32.1.1. The Qualified Medicare Beneficiary (QMB) program pays not only the Medicare Part B premium but also some Medicare deductibles and copayments. The income limit is less than 100% of the federal poverty limit for QMB, 100% to 120% for SLMB, and 120% to 135% for SLMB+. Each uses the same rules for determining financial eligibility as Medicaid. Medicaid Eligibility Handbook, § 32.1.1. Those eligible for medical assistance cannot receive SLMB+. When determining benefits, \$20 of all income, \$65 plus one-half of the remaining earned income, and any special exempt income listed in Medicaid Eligibility Handbook, § 15.7.5, is excluded for each person in the household. Medicaid Eligibility Handbook, §§ 32.3.2. and 32.2.3. The agency denied the petitioner's application because the couple's countable income exceeds the limit for SLMB.

The petitioner receives income in excess of \$1,602.00 monthly. The respondent presented no exhibits to confirm this determination, but I note that the respondent did not dispute this assertion at hearing. The SLMB income limit, 120% of the federal poverty level, is \$1,602.00. The petitioner contends that it makes no sense to deny the entire benefit when a potential recipient is only slightly over the program's limit. I understand his argument, but regardless of whether the law is rational, it is binding, and I must follow it. Because the petitioner's income exceeds 120% of the federal poverty level, he is ineligible for SLMB.

Petitioner also complained that Social Security deducted premiums in one lump deduction. The respondent indicated that this is beyond its ability to address, as Social Security is a federal program. I, too, am confined to application of state law, and cannot compel Social Security to set up a monthly payment plan, as petitioner requested. I also note that petitioner may wish to request that the respondent review his income and situation as pertains to SLMB+ to see if he and his wife may qualify for assistance from that program.

CONCLUSIONS OF LAW

The county agency correctly determined that the petitioner is ineligible for Medicare Premium Assistance (SLMB) because his income exceeds the program's limit.

THEREFORE, it is

ORDERED

The petitioner's appeal is dismissed.

REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, Madison, Wisconsin 53703, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Madison,
Wisconsin, this 7th day of June, 2016

\sPeter McCombs
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on June 7, 2016.

Menominee Indian Tribe of WI
Division of Health Care Access and Accountability